

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ELVIA SANTOS ESTEVEZ, :  
Plaintiff, :  
: 22 Civ. 9379 (JPC)  
-v- :  
: ORDER  
UNITED STATES CITIZENSHIP AND :  
IMMIGRATION SERVICE (USCIS) *et al.*, :  
Defendants. :  
-----X

JOHN P. CRONAN, United States District Judge:

On June 1, 2023, the parties filed a Stipulation and [Proposed] Order of Dismissal (the “Stipulation and Order”), to be so-ordered by the Court, that would dismiss this case without prejudice. Dkt. 19. Among the recitals at the beginning of the Stipulation and Order was one that read, “WHEREAS, this Court lacks jurisdiction to consider Ms. Santos Estevez’s challenge to USCIS’s denial pursuant to 8 U.S.C. § 1252(a)(2)(B)(i), *see Morina v. Mayorkas* No. 22-cv-02994, 2023 WL 22617, at \*9 (S.D.N.Y. Jan. 3, 2023).” *Id.* As a result, were it so-ordered the Stipulation and Order might appear to hold, as a matter of law, that the Court lacks jurisdiction over this case. However, the Court is unwilling to issue such a holding absent full briefing on the jurisdictional question, which it has not received. For that reason, the Court will not so-order the Stipulation and Order as filed. The parties may submit a revised proposal that omits the mention of jurisdiction, indicates in a “WHEREAS” clause that the *parties* agree that jurisdiction is lacking, or otherwise makes clear that, in dismissing this case, the Court does not reach the merits of Defendants’ jurisdictional arguments.

In addition, in light of the apparent agreement between the parties to discontinue this action, the status conference scheduled for June 7, 2023 at 9:30 a.m. is adjourned *sine die*. Ms.

Santos Estevez does not need to call the Court's telephone conference number at that time. The Court will advise the parties in the event there is a need for another conference in this matter.

SO ORDERED.

Dated: June 2, 2023  
New York, New York

---



JOHN P. CRONAN  
United States District Judge